

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6982 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE K.R.VYAS

=====

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

YAKUB RASOOL MALEK

Versus

DEVELOPMENT COMMISSIONER

Appearance:

MR RC JANI for Petitioner

MR RC KODEKAR,AGP for Respondent No. 1, 2, 3, 4

CORAM : MR.JUSTICE K.R.VYAS

Date of decision: 10/08/1999

ORAL JUDGEMENT

Rule. Mr.R.C.Kodekar, learned AGP waives service.

1. The petitioner who was removed as a Sarpanch under section 57(1) of the Gujarat Panchayats Act, 1993 by an order dated 30.9.1997 passed by the District Development Officer, preferred appeal which was also rejected by the Addl.Development Commissioner on

21.1.1998 against which the petitioner preferred Special Civil Application No.634 of 1998. Rule was issued in the said petition on 3.2.1998. When the said petition came up for final hearing before H.L.Gokhale,J., it was pointed out by the learned Counsel for the petitioner that there were number of documents on record which ought to have been considered. This Court, with a view to see that the case of the petitioner is re-examined in the light of the documents the petitioner intends to produce, directed the Addl. Development Commissioner to re-examine the matter in the light of the documents which the petitioner intends to produce before him. The Addl. Development Commissioner was further directed to decide the matter afresh expeditiously and preferably by the end of July 1998. The petition was accordingly disposed of.

2. The Addl. Development Commissioner, instead of taking the decision by himself, by an order dated 30.7.1998, referred the matter back to the District Development Officer, Surat, to decide it afresh. The petitioner has challenged the said order in this petition.

3. While agreeing with the submissions of Mr. Jani, I am of the opinion that once a specific direction was issued by this Court to the Addl. Development Commissioner to re-examine the matter in light of the documents which the petitioner intends to produce before him and once a specific direction is given to decide the matter afresh expeditiously and preferably by the end of July 1998, the said authority is bound to decide the same. It is not proper on his part to send the matter to the District Development Officer by directing him to decide the matter afresh. Once this Court entrusts the matter to be decided by a particular authority, it is incumbent upon the said authority to decide the matter rather than transferring it to some other authority.

4. Since the Addl. Development Commissioner failed in deciding the matter himself in breach of the directions of this Court, this petition is allowed. The order dated 30.7.1998 passed by the Addl. Development Commissioner is set aside. The said authority is once again directed to hear and decide the application in light of the documents which the petitioner shall tender before him and with a further direction that the matter shall be decided within four weeks from the date of receipt of the writ of this Court. Direct Service.

sonar/-